

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER 97-0109-ST

Sales/Use Tax

For The Period: 1993, 1994 and 1995

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ISSUE

Sales/Use Tax - Palletizer/Load Former and Down Stream Machinery

Authority: IC 6-2.5-5-3, 45 IAC 2.2-5-10, General Motors v. IDOSR, 578 N.E.2d 399 (Ind Tax 1991)

Taxpayer protested the proposed assessment of sales/use tax on the purchase of a palletizer/load former, conveyor and wrapping table.

STATEMENT OF FACTS

Taxpayer is a manufacturer of boxes. The taxpayer purchases large rolls of heavy weight paper which is loaded onto the first machine in the integrated production process. The paper is unrolled, steamed to straighten, starched to stiffen, corrugated or flattened as required. The paper is then glued together to form corrugated cardboard sheets. The sheets are then laminated with a printed face. The sheets are then stacked and stored on pallets for a short time to allow the cardboard to cure and rest (straighten). The rested sheets are then scored for folds and cut to dimension. The cut sheets are then stacked on pallets at the cutting press and stretched wrapped for shipping if no further operations are needed such as folding and gluing. Those sheets which need further operations are sent to the folder/gluer machines. The folder/gluer machines fold the sheets and glue one edge leaving the sheets doubled and flat but ready to be expanded into the completed box by the purchaser. The flat boxes are then packed (packaged) into other cardboard box containers.

The containers of flat boxes then pass through a taping machine which closes the container, tapes the container, and marks the outside of the containers using an ink jet printing system to identify

the contents. The closed and sealed containers then continue on a conveyor system to a roller bearing table where the containers stop and are inspected to ensure the tape machine has properly taped the container closed. Improperly taped containers are taped by hand. It is at this point that the auditor contends the integrated production process has been completed, including packaging and inspection.

The containers are then removed from the roller table by the load former operator and loaded by hand onto the load former. The load former is a machine which extends a flat table on which the containers are loaded and squared by the operator. Once the load former table is loaded the operator activates the load former which automatically retrieves a pallet from storage and raises the pallet to just below the extended table. The extended table is then withdrawn and the containers drop onto the pallet. The load former then lowers the pallet and extends the loading table to be loaded again by the operator from the roller table. The operator repeats the loading operation until the pallet is loaded to a predetermined height or weight. Once the containers have been loaded onto the pallets the load former then pushes the pallet onto the automated conveyor which directs and moves the loaded pallet to the stretch film wrapping machine. The film wrapping machine automatically secures the load to the pallet by wrapping the load with the clear plastic stretch film. The loaded pallet then continues on the automatic convey to the warehouse and shipping areas.

DISCUSSION

The load former is a machine that retrieves a pallet and places the pallet at a specific elevation so that when the master boxes are stacked upon the pallet the complete height of the arrangement does not exceed some specified height. Taxpayer contends this height is governed by the vendee's requirements. The description of the load former indicates that it could be called a palletizer. In describing when the production process ends, 45 IAC 2.2-5-10(c)(2)(D) states "[t]he exempt production process . . . ends with the final packaging of the product onto the case palletizers." Pursuant to 45 IAC 2.2-5-10(c)(2)(D), the taxpayer's purchase of load formers/palletizers are exempt from Indiana sales/use tax. Taxpayer is sustained on this portion of its protest.

After the product leaves the load former/palletizer, it moves by a conveyor to the wrap table where the stacked product is wrapped in a plastic type material and is moved to the debarkation areas. It is the taxpayer's position the plastic stretch wrap is necessary to protect the product from transit damage and vapor or moisture penetration.

The Department believes that the primary purpose of the shrink wrap is to secure the boxes to the pallet for shipping. This presumption is affirmed by 45 IAC 2.2-5-10, which indicates that production ends prior to items being secured to pallets. Taxpayer is denied on this portion of its protest.

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FINDING

Taxpayer's protest is partly sustained and partly denied.